

OGC Has Reviewed

REPRESENTATION

Allowances.

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13 May 1949

MEMORANDUM FOR: THE DIRECTOR

SUBJECT: Representation Allowances

1. We have no objection from a legal point of view to an amendment to the Confidential Funds Regulations concerning representation allowances which would eliminate the requirement that such allowances be given only to individuals while at a particular post. We concur, in fact, with the statement that recent experience indicates that some relaxation of the existing regulations is desirable.

2. We wish to point out, however, that the authority, as currently drafted, was purposely restricted to individuals after lengthy discussions with the various offices concerned. This rigidity was based on the feeling that there was a common misunderstanding of the theory and purpose of representation allowances which required careful control to prevent abuse, and that the best way to exercise such control was to brief each individual, who was to be given the representation allowance, on the purposes for which it could be used. There is still considerable room for discussion on the permissible limits to the use of representation allowances, and we feel it would be desirable to word the regulations themselves, and the instructions to the field explaining them, so that the proper concept will be fully understood. It is particularly desirable to draw as sharp a line as possible between the type of entertainment permissible under representation allowances and that properly chargeable to operational entertainment. We therefore propose the language below for the first paragraph of Part C.3 of the Confidential Funds Regulations, which is somewhat more detailed than that recommended by ADG, but which will, we believe, achieve the desired result. This language is as follows:

"The Assistant Directors for the covert offices are authorized to determine the necessity for and to approve representation allowances under the following circumstances:

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g. Where officers or employees are traveling on a special mission, the nature of which requires them to represent the United States in such a manner that expenses beyond those which are ordinarily considered personal are incurred, they may be given representation allowances to meet such necessary reasonable extra expenses. The type of expenses for which these allowances shall be available will be for such items as larger or more expensive quarters than the individual could normally occupy, but which are required for the purposes of the mission and for which prevailing per diem are inadequate, general entertainment of other than purely U. S. officials which is not directly related to an operation or project but which is generally beneficial to the success of the mission, and courtesy gestures required by local custom or directly related to the furtherance of the mission. Other items may be appropriate in specific cases, but should, where possible, be considered and approved in advance. These allowances will be fully accountable.

h. Where officers or employees, permanently assigned to foreign stations, are required in the course of their official duties to maintain standards of living higher than those normal to their grades and positions in order properly to represent the United States, representation allowances may be authorized to the Chiefs of those stations, to be allotted by them as circumstances in each station require. Each chief will exercise his discretion under the general principles controlling, but will be responsible for adherence to such principles, which are set forth generally below.

(1) Representation allowances may be expended only for the enhancement of United States prestige and interests. This eliminates entertainment of other U. S. officers and employees alone, but not when their presence is incidental to proper entertainment of foreign officers or employees. It also, of course, eliminates

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entertainment or other expenses personal in nature. Thus club dues for memberships for sport purposes are not to be charged to the allowance, although club dues for memberships which are taken out as part of what might be called "official social obligations" and would not otherwise be used, are properly allowable. Further eliminated is entertainment directly related to operational projects or project development; this is provided for separately and must be distinguished.

(2) Representation allowances are provided to increase standards of living generally, and are not specifically for giving dinners or buying drinks; the entertainment is an important element but is incidental to the main concept. Thus in some cases the entire allowance might go to pay for more expensive quarters than the employee would normally be expected to take. In others, it might merely provide for necessary extra servants or a chauffeur. On the other hand, if circumstances warrant, it might be authorized for certain number of formal dinners proper to local protocol, or even for keeping an adequate liquor supply. The average case will be a combination of some or all of these items together with other abnormal expenses which are required by local custom and courtesy.

(3) Representation allowances are fully accountable. The accounts submitted will, of course, be the measure of the station chiefs' discretion as they will indicate whether those who expend the money are properly required by their duties to make such expenditures and whether they spent it for proper purposes and in reasonable amounts. In the event of errors in judgment or misunderstandings, the accountings will not normally be a basis for collections back for money already expended, but will be used to correct mistakes and as a basis for instructions to the field."

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3. In addition to recommending the relaxation with which we have concurred above, the ADHO has recommended that the amendment be retroactive to 1 February 1949, and that the interpretation which was placed on the previous regulations be approved by you for the period of 1 July 1948 through 31 January 1949. We feel that since there is a distinct change in principle at this time, it would be preferable not to make the amendment retroactive. We also feel that it would be preferable not to approve the interpretation placed on the old regulations since, in our opinion, the old regulations were intended to be restrictive and the interpretation placed on them was erroneous. We have, however, no objection to approval by you of payments made heretofore as we believe they were made and accepted in good faith and any error was unintentional and also in good faith, so that there would be no need to require collections back for reasonable payments made in the past.

LAURENCE R. HENSTON
General Counsel

cc: ADHO
Chief, Confidential Funds Branch

LHV/ml

cc: *Subject*
Legal Rec.
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